



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03999/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

**On 18 April 2018
(delivered orally at hearing)**

**Decision & Reasons
Promulgated
On 9 May 2018**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

**M R K
(ANONYMITY DIRECTION MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Iqbal, Counsel instructed by Reza Solicitors
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order prohibiting the disclosure or publication of any matter likely to lead to members of the public identifying the appellant. A failure to comply with this direction could lead to Contempt of Court proceedings.
2. The appellant is a citizen of Bangladesh who was born on 1 January 1984. He arrived in the United Kingdom on 26 October 2009 and applied for asylum on 13 August 2016. On 11 April 2017 the Secretary of State refused his application for asylum, humanitarian protection and under Art 8 of the European Convention on Human Rights.

3. The appellant appealed to the First-tier Tribunal. His appeal was heard on 7 December 2017 and in a decision sent on 4 January 2018 Judge A J Parker dismissed the appellant's appeal on all grounds.
4. The appellant sought permission to appeal to the Upper Tribunal on a number of grounds and permission was granted by First-tier Tribunal Judge A D Baker on 30 January 2018.
5. Mr Iqbal, who represented the appellant, placed reliance upon the grounds set out in para 3, in particular paras 3.1 - 3.2 of the grounds. The basis of the appellant's claim before the judge was that he was a member of the Bangladesh Nationalist Party (the BNP) and that he was wanted by the authorities there. He relied in putting forward that claim upon a visit he said had occurred on 25 August 2016, when of course he was in the UK, when the police came to his home in Bangladesh. In his decision Judge Parker dealt with this at paras 18 and 19 where he said:

"18. [The Presenting Officer] in an excellent cross-examination, extracted from the appellant that he found out that the case against him in Bangladesh was on 25 August 2016 when the police came to his house.

19. It was put to him that the asylum interview was on 4 April 2017 and he made no mention of this fact in screening and asylum interview. This is a major discrepancy which goes to the core of the appellant's claim."

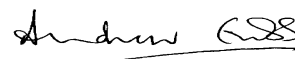
6. Mr Iqbal took me to the appellant's asylum interview and in particular to the answer given to question 81 when he was asked "Your mother has not received any further threats in Bangladesh?", to which he replied:

"The election took place in May 2016 and after that I started raising a voice against the corruption and once I did election carried out by the Awami League, all this I was highlighting online and this made [G] more hostile against me online and on 25/08/2016 police raided our house, police were looking for me they searched the whole house and when they didn't find me they questioned my mother, my mother is quite old and she is a heart patient when she asked them why did you come, the police replied that we are looking for [the appellant], when my mother asked why have you come, then they show a paper to my mother although she didn't understand what the paper is but they said ask your son to report to the police as soon as possible, in Sept 2016 my mother went to the local police station to find out why they were looking for me, the police said ask your son to report although they are well aware about my participation and my activities through the press media and the online media my involvement with the BNP politics ..." (emphasis added)

7. Mr Iqbal submitted that the judge had therefore made a fatal factual mistake in para 19 of his decision when he counted against the appellant that he had not referred to the raid upon, or visit by the police to, his mother's house on 25 August 2016 in his screening or asylum interview. The appellant had done so in answer to question 81 of his asylum interview. He also pointed out that the judge in para 19 referred to this as a "major discrepancy which goes to the core of the appellant's claim" and therefore this was, he submitted, a material error by the judge in reaching his adverse credibility finding.

8. Mr Kotas who represented the Secretary of State candidly accepted that there had been a mistake by the judge and that given the wording of the judge's decision in para 19 he was not in a position to defend the decision on this ground and he accepted that the decision had to be set aside and the decision remade.
9. The concession made by Mr Kotas was entirely appropriate given the factual error made by the judge in para 19. In those circumstances, I agree that the decision of the judge is materially flawed in law. The judge's adverse credibility finding is based upon a significant and material mistake as to the appellant's evidence. In those circumstances the First-tier Tribunal's decision cannot stand and I set it aside.
10. The proper disposal of this appeal is that it be remitted to the First-tier Tribunal for a *de novo* rehearing before a judge other than Judge A J Parker.

Signed



A Grubb
Judge of the Upper Tribunal

3 May 2018